



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	State Board of Social Services
VAC Chapter Number:	22VAC40-220
Regulation Title:	Agency Placement Adoptions – Guiding Principles
Action Title:	Repeal as a result of periodic review
Date:	February 19, 2003

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

This regulation sets forth guiding principles for local departments of social services in providing agency placement adoption services. The regulation is being repealed. The state and federal laws reflected in the regulation are no longer in effect. The practice guidelines reflected in the regulation will be incorporated into the Department of Social Services guidance document, Volume VII, Section III, Chapter C, Agency Placement Adoptions. No changes have been made to the regulation since the proposed action was published.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

On February 19, 2003, the State Board of Social Services approved the repeal of regulation 22 VAC 40-220, et seq., entitled Agency Placement Adoptions-Guiding Principles.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.

Sections 63.2-217 and 63.2-900 of the *Code of Virginia* grant authority to the State Board of Social Services to promulgate regulations for the provision of foster care services that shall be directed toward the prevention of unnecessary foster care placements and toward permanent planning for children in the custody of or placed by local boards of social services. Rulemaking under these two sections is discretionary rather than mandatory. The proposed change does not exceed federal minimum requirements. The Office of the Attorney General has certified that the State Board of Social Services has the statutory authority to take this regulatory action, and this action comports with applicable state and federal laws.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The regulation is not necessary to the health, safety or welfare of citizens. The final regulatory action is to repeal. Repealing the regulation will eliminate any reference to obsolete state/federal requirements in regulatory language. The best practice recommendations will be more appropriately placed into the Department's guidance document on agency placement adoptions.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action’s detail.

The entire regulation is being repealed.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term “issues” means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The advantage to the public, agency, and Commonwealth is that an outdated regulation will be repealed, and suggested best practices will remain available in the adoption services guidance document. By not having this information in the form of a regulation, the ability to update and clarify the information will be greatly simplified.

There are no disadvantages to the public or Commonwealth.

Statement of Changes Made Since the Proposed Stage

Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.

There have been no changes to the proposed text since its publication.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

Public comment was not received.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the

proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

The entire regulation is being repealed. Areas where the regulation conflicts with current federal and state laws include:

1. Guiding Principle 5 provides that the preferred adoptive family is one of the same race, ethnic, or cultural background whenever possible. This conflicts with the federal Multi-Ethnic Placement Act (MEPA) of 1994 and as amended in 1997. MEPA prohibits denial or delay in placement based on the race, color, or national origin of the adoptive or foster family, and child. The federal 1997 Adoption and Safe Families Act (ASFA) prohibits denial or delay in placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for the child.
2. Guiding Principle 12 addresses the rights of adult adoptees to full disclosure of information from their records except that which would reveal the identity of the family of origin. This is now mandated by the *Code of Virginia*, making this regulation unnecessary.

The remaining guiding principles represent recommended best practices which are not statutory requirements. All applicable federal and state laws, as well as best service delivery practices, will be addressed in the agency placement adoption guidance document, Volume VII, Section III, Chapter C.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

Repeal of the regulation will have no impact on : 1) the authority and rights of parents in education, nurturing and supervision of their children; 2) the economic self-sufficiency, self-pride and the assumption of responsibility for oneself, spouse, children and/or elderly parents; 3) the marital commitment; and 4) disposable family income.